

STATE OF WISCONSIN

Senate Journal

Eighty-Sixth Regular Session

THURSDAY, February 17, 1983

10:00 A.M.

The senate met.

The senate was called to order by Fred A. Risser, president of the senate.

The roll was called and the following senators answered to their names:

Senators Adelman, Bablitch, Chilsen, Cullen, Davis, Ellis, Engeleiter, Feingold, George, Hanaway, Harsdorf, Johnston, Kleczka, Kreul, Lasee, Lee, Lorge, Lorman, McCallum, Maurer, Moen, Norquist, Offner, Opitz, Otte, Risser, Roshell, Strohl, Theno, Thompson and Van Sistine -- 31.

Absent -- None.

Absent with leave -- None.

The senate stood for the prayer which was offered by Pastor Max Andrews of Victory Baptist Church, Madison.

The senate remained standing and Senator Feingold led the senate in the pledge of allegiance to the flag of the United States of America.

By request of Senator Kreul, with unanimous consent, the senate recessed until 11:24 A.M.

10:05 A.M.

RECESS

11:24 A.M.

The senate reconvened.

COMMITTEE REPORTS

The committee on Senate Organization reports and recommends:

Senate Joint Resolution 15

Commending Tom King for his service to the Wisconsin state employees union and the state.

Adoption:

Ayes, 5 -- Senators Cullen, Risser, Offner, Harsdorf and Engeleiter;

Noes, 0 -- None.

TIMOTHY F. CULLEN
Chair

The committee on Energy and Environmental Resources reports and recommends:

Senate Resolution 5

Relating to requesting the attorney general to initiate or intervene in an action to oppose the sale of any portion of the Apostle Islands National Lakeshore or any exchange of land affecting the Apostle Islands National Lakeshore which would have a detrimental effect on the people of this state.

Adoption:

Ayes, 4 -- Senators Strohl, Adelman, Ellis and Lee;
Noes, 1 -- Senator Opitz.

Assembly Joint Resolution 5

Providing for an advisory referendum on the question of locating a nuclear waste site in Wisconsin.

Concurrence:

Ayes, 4 -- Senators Strohl, Adelman, Ellis and Lee;
Noes, 1 -- Senator Opitz.

JOE STROHL
Chair

The committee on Urban Affairs and Government Operations reports and recommends:

JACKAMONIS, EDWARD, of Waukesha, as Executive Director of the Wisconsin Housing Finance Authority, to serve for the term ending February 1, 1985.

Confirmation:

Ayes, 5 -- Senators Lee, Van Sistine, Strohl, Johnston and Davis;

Noes, 0 -- None.

HEMERSBACH, CAROL Z., of Greenwood, as Administrator of the Division of Emergency Government, to succeed Joseph LaFleur, to serve at the pleasure of the Governor.

Confirmation:

Ayes, 5 -- Senators Lee, Van Sistine, Strohl, Johnston and Davis;

Noes, 0 -- None.

SYKES, JAMES T., of Madison, as a member of the Wisconsin Housing Finance Authority, to serve for the term ending January 1, 1986.

Confirmation:

Ayes, 5 -- Senators Lee, Van Sistine, Strohl, Johnston and Davis;

Noes, 0 -- None.

**Assembly Bill 47**

Relating to making the birthdate of Martin Luther King, Jr. a legal holiday.

Concurrence:

Ayes, 4 -- Senators Lee, Van Sistine, Strohl and Johnston;

Noes, 1 -- Senator Davis.

**Assembly Bill 36**

Relating to payment of judgments against sheriffs and deputy sheriffs.

Concurrence:

Ayes, 4 -- Senators Lee, Van Sistine, Strohl and Davis;

Noes, 0 -- None.

MORDECAI LEE

Chair

The committee on Labor, Business, Veterans Affairs and Tourism reports and recommends:

GRATZ, MARSHALL, of Shorewood, as a member of the Wisconsin Employment Relations Commission, to succeed Herman Torosian, to serve for the term ending March 1, 1987.

Confirmation:

Ayes, 6 -- Senators Van Sistine, Roshell, Adelman, Thompson, Chilsen and Engeleiter;

Noes, 0 -- None.

TOROSIAN, HERMAN, of Madison, as Chairperson of the Wisconsin Employment Relations Commission, to succeed Morris Slavney, to serve for the term ending March 1, 1989.

Confirmation:

Ayes, 6 -- Senators Van Sistine, Roshell, Adelman, Thompson, Chilsen and Engeleiter;

Noes, 0 -- None.

JEROME VAN SISTINE

Chair

The committee on Transportation reports and recommends:

JACKSON, LOWELL, of Madison, as Secretary of the Department of Transportation, to succeed Owen Ayres, to serve at the pleasure of the Governor.

Confirmation:

Ayes, 5 -- Senators Otte, Maurer, Moen, Ellis and Kreul;

Noes, 0 -- None.

**Assembly Bill 13**

Relating to eliminating the requirement that operators' licenses be centrally issued.

Concurrence:

Ayes, 5 -- Senators Otte, Moen, Maurer, Ellis and Kreul;

Noes, 0 -- None.

CARL OTTE

Chair

PETITIONS AND COMMUNICATIONS

**Senate Petition 2**

A petition by 796 students at the University of Wisconsin - Oshkosh, demanding a return to the 25% funding formula for resident students.

By Senator McCallum.

Read and referred to joint committee on Finance.

State of Wisconsin  
Department of State

February 15, 1983

To the Honorable the Senate

I have the honor to transmit to you the following information pursuant to s. 13.685(8):

Sincerely,  
DOUGLAS LAFOLLETTE  
Secretary of State

*Lobbyist's name, address, telephone number; principal's name, address, telephone number; the code numbers indicating Areas of Legislative Action; the code numbers indicating Areas of Administrative Action.*

Buckley, James P., 815 W. College Ave., Waukesha, WI 53186 (414) 542-5333; Wisconsin School Social Workers Assn., 815 W. College Ave., Waukesha, WI 53186 (414) 542-5333; 7, 148; Wisconsin Federation of Pupil Services Assn., 815 W. College Ave., Waukesha, WI 53186 (414) 542-5333; 7, 19; 148; Wisconsin Dental Hygienists Assn., 815 W. College Ave., Waukesha, WI 53186 (414) 542-5333; 11, 18, 26; 150, 157; Wisconsin Speech-Language-Hearing Assn., 3846 W. Wisconsin Ave., Milwaukee, WI 53186 (414) 542-5333; 7, 11, 19; 129, 148. Wisconsin Personnel & Guidance Assn., 1224 E. Racine Ave., Waukesha, WI 53186 (414) 542-5333; 7-19; 148, 184; Wisconsin Installment Bankers Assn., 815 W. College Ave., Waukesha, WI 53186 (414) 542-5333; 2; 113; Wisconsin School Psychologists Assn., 815 W. College Ave., Waukesha, WI 53186; 7, 18; 129, 148, 150.

Christensen, Robert A., Foley & Lardner, 777 E. Wisconsin Ave., Milwaukee, WI 53202 (414) 289-3518; W. R. Grace & Co., 1114 Avenue of the Americas, N.Y.C. 10036 (212) 764-5692; 16.

Derouin, James G., 121 S. Pinckney St., Madison, WI 53703 (608) 255-8891; Union Carbide Agricultural Products Co., Inc., Old Ridgebury Rd., Danbury, CT 06817 (203) 794-2000; 1-25; 101-185.

Dohm, Thomas D., 120 Wisconsin Ave., Madison, WI 53703 (608) 255-0373; Wisconsin Independent Businessmen, Inc., The Concourse, 120 Wisconsin Ave., Madison, WI 53703 (608) 255-0373; 1-26; 101-186.

Driessen, Anthony H., 660 E. Mason St., Milwaukee, WI 53202 (414) 271-5900; M & I, Marshall & Ilsley Bank, 770 N. Water St., Milwaukee, WI 53202 (414) 765-7808; 2, 3, 13, 20-22, 24; 101, 113, 140, 170, 174.

Faile, Thomas H., 120 Wisconsin Ave., Madison, WI 53703 (608) 255-0373; Wisconsin Independent

Businessmen, Inc., 120 Wisconsin Ave., Madison, WI 53703 (608) 255-0373; 1-26; 101-186.

Harnisch, Thomas W., 7 N. Pinckney St., Madison, WI 53703 (608) 255-4440; Wisconsin Assn. for Marriage & Family Therapy, 330 Broadway, Wausau, WI 54401 (715) 842-3913; 18, 19; 101-129.

Hasler, Joseph J., 121 S. Pinckney St., Madison, WI 53703 (608) 255-8891; Ruleau Brothers, Inc., Cedar River, MI 49813 (906) 863-9045; 13, 18, 21, 26; 144; Charles Nylund, 1805 30th Ave., Menominee, MI 49858 (906) 863-9457; 13, 18, 21, 26; 144.

Hofmann, Linda G., 120 Wisconsin Ave., Madison, WI 53703 (608) 255-0373; Wisconsin Independent Businessmen, Inc., 120 Wisconsin Ave., Madison, WI 53703 (608) 255-0373; 1-26; 101-186.

Huber, Mark Miles, 10001 W. Lisbon Ave., Milwaukee, WI 53222 (414) 463-3232; American Lung Assn. of WI, Inc., 10001 W. Lisbon Ave., Milwaukee, WI 53222 (414) 463-3232; 3, 7, 9-11, 17-19; 129, 144, 148.

Klausner, James R., 121 S. Pinckney St., Madison, WI 53703 (608) 255-8891; Union Carbide Agricultural Products Co., Inc., Old Ridgebury Rd., Danbury, CT 06817 (203) 794-2000; 1-25; 101-185.

Kuehn, Ronald W., 121 S. Pinckney St., Madison, WI 53703 (608) 255-8891; Assn. of Wisconsin School Administrators, 1310 Mendota St., Madison, WI 53714 (608) 241-9544; 1-26; 101-186.

Macdonald, Diana M., 756 N. Milwaukee St., Milwaukee, WI 53202 (414) 273-3000; Metropolitan Milwaukee Assn. of Commerce, 756 N. Milwaukee St., Milwaukee, WI 53202 (414) 273-3000; 1-25; 101-185.

Mann, Judith A., 844 N. 12th St., Milwaukee, WI 53233 (414) 271-8045; Planned Parenthood of Wisconsin, Inc., 844 N. 12th St., Milwaukee, WI 53233 (414) 271-8045; 4, 7, 9-12, 18-20; 129, 138, 148, 150, 161, 164.

Martin, Patric J., 133 Blair St., P.O. Box 1231, Madison, WI 53701 (608) 252-7056; Madison Gas & Electric Co., 133 S. Blair St., P.O. Box 1231, Madison, WI 53701 (608) 252-7000; 1-26; 101-186.

Milbourne, Robert H., Kohler Co., Highland Dr., Kohler, WI 53044 (414) 457-4441, Ext. 2145; Kohler Co., Highland Dr., Kohler, WI 53044 (414) 457-4441; 13, 21, 22; 136, 148, 170, 176.

Morgan, James W., 6515 Grand Teton Plaza, Ste. 120, Madison, WI 53719 (608) 833-9595; Wisconsin Precast Concrete Assn., 12780 W. Lisbon Rd., Brookfield, WI 53005 (414) 781-6262; 17, 18, 21, 23; 136, 144, 176; National Solid Waste Management Assn., 1120 Connecticut Ave., N.W., Ste. 930, Washington, D.C. 20036 (202) 659-4613; 26; 129, 144.

Riordan, Ray J., Jr., 4610 University Ave., Ste. 640, P.O. Box 55088, Madison, WI 53705 (608) 231-2477; Wisconsin State Telephone Assn., 4610 University Ave., Ste. 640, P.O. Box 55088, Madison, WI 53705 (608) 231-2477; 13, 15, 21, 26.

Rouse, Richard P., 231 W. Michigan St., Rm. 446, Milwaukee, WI 53201 (414) 277-2136; Wisconsin Electric Power Co., 231 W. Michigan St., Milwaukee, WI 53201 (414) 277-2345; 1-26; 101-186.

Rush, Donald S., Ste. 802, 30 W. Mifflin St., Madison, WI 53703 (608) 255-8074; Wisconsin Catholic Conference, 30 W. Mifflin St., Madison, WI 53703 (608) 257-0004; 1, 3, 5-12, 14-20, 22-25; 101, 108, 109, 118, 127-129, 136, 140, 148-150, 154, 170, 174; Assn. for Fire Safety, P.O. Box 156, North Prairie, WI 53153 (414) 466-5252; 26; 136; Wisconsin Assn. of Plumbing Contractors, Inc., 890 Elm Grove Rd., Ste. 104A, Elm Grove, WI 53122 (414) 786-4678; 3, 11, 13, 15, 18, 21; 101, 109, 129, 136, 150; Wisconsin Collectors Assn., P.O. Box 584, Sheboygan, WI 53081 (608) 255-8074; 3, 5, 18, 21; 109, 113-115; Associated Credit Bureaus of Wisconsin, Inc., 115 E. Court St., P.O. Box 628, Janesville, WI 53545 (608) 752-1280; 3, 13, 20, 21, 26; 109, 113-115.

Taranto, Mindy, 110 E. Main St., c/o Lawton & Cates, Madison, WI 53703 (608) 256-9031; Milwaukee District Council 48, AFSCME, 3427 W. St. Paul Ave., Milwaukee, WI 53208 (414) 344-6868; 26.

Trottier, William G., 621 N. Sherman Ave., Madison, WI 53704 (608) 249-6474; Wisconsin Manufactured Housing Assn., 621 N. Sherman Ave., Madison, WI 53704 (608) 249-6474; 1-4, 11, 13, 14, 16-23, 26; 107, 109, 113, 114, 116, 129, 136-138, 140, 142, 144, 149, 150, 158, 167, 170-173, 176, 178, 186.

Varda, Michael S., 121 S. Pinckney St., Madison, WI 53703 (608) 255-8891; Ruleau Brothers, Inc., Cedar River, MI 49813 (906) 863-9045; 13, 18, 21, 26; 144; Charles Nylund, 1805 30th Ave., Menominee, MI 49858 (906) 863-9457; 13, 18, 21, 26; 144.

Registration Amendment:

Wisconsin Auto and Truck Parts Recycling Assn.: Change address and phone number to: P.O. Box 3216, Green Bay, WI 54303 (414) 437-4877.

Lobbyist Termination:

Rogacki, Mark M., for County of Milwaukee, effective February 8, 1983.

CALENDAR OF FEBRUARY 17

BRILL, CAROL A., of Milwaukee, as a member of the Community Development Finance Authority, to serve for the term ending September 1, 1987.  
Read.

CASTO, WILLIAM O., III, of Waukesha, as a member of the Community Development Finance Authority, to serve for the term ending September 1, 1985.  
Read.

DIXON, WILLIAM P., of Madison, as Commissioner of Banking, to succeed Thomas E. Pederson, for the term ending March 1, 1989.  
Read.

FLORES, NESS, of Waukesha, as a Commissioner on the Public Service Commission, to succeed Willie Nunnery to serve for the term ending March 1, 1989.  
Read.

GRATZ, MARSHALL, of Shorewood, as a member of the Wisconsin Employment Relations Commission, to succeed Herman Torosian, to serve for the term ending March 1, 1987.

Read.

HEMERSBACH, CAROL Z., of Greenwood, as Administrator of the Division of Emergency Government, to succeed Joseph LaFleur, to serve at the pleasure of the Governor.

Read.

HENDERSON, HUGH, of Windsor, as a member of the Labor Industry Review Commission, to succeed Virginia Hart, to serve for the term ending March 1, 1989.

Read.

JACKAMONIS, EDWARD, of Waukesha, as Executive Director of the Wisconsin Housing Finance Authority, to serve for the term ending February 1, 1985.

Read.

JIRIKOWIC, RALPH, of Milwaukee, as a member of the Community Development Finance Authority, to serve for the term ending September 1, 1983.

Read.

MORALES, JUAN, of Jefferson, as a member of the Community Development Finance Authority, to serve for the term ending September 1, 1984.

Read.

SCHENDEL, MARY, of Westby, as a member of the Community Development Finance Authority, to serve for the term ending September 1, 1986.

Read.

SYKES, JAMES T., of Madison, as a member of the Wisconsin Housing Finance Authority, to serve for the term ending January 1, 1986.

Read.

TOROSIAN, HERMAN, of Madison, as Chairperson of the Wisconsin Employment Relations Commission, to succeed Morris Slavney, to serve for the term ending March 1, 1989.

Read.

TRYON, ROSALIE, of Fond du Lac, as a member of the Community Development Finance Authority, to serve for the term ending September 1, 1986.

Read.

The question was: Shall the appointments be confirmed?

The ayes and noes were required and the vote was: ayes, 31; noes, 0; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Chilsen, Cullen, Davis, Ellis, Engeleiter, Feingold, George, Hanaway, Harsdorf, Johnston, Kleczka, Kreul, Lasee, Lee, Lorge, Lorman, McCallum, Maurer, Moen, Norquist, Offner,

Opitz, Otte, Risser, Roshell, Strohl, Theno, Thompson and Van Sistine -- 31.

Noes -- None.

Absent or not voting -- None.

So the appointments were confirmed.

## SENATE CLEARINGHOUSE ORDERS

### Clearinghouse Rule 82-202

AN ORDER to amend Tax 11.10 (3) (b) and (e), (4) (c) and (6) (a), (b) and (d); to repeal and recreate Tax 11.10 (3) (c); and to create Tax 11.10 (6) (f), (g), (h) and (i), relating to the sales tax treatment of certain occasional sales.

Submitted by Department of Revenue.

Report received from agency, February 16, 1983.

Referred to committee on Labor, Business, Veterans Affairs and Tourism, February 17, 1983.

The committee on Agriculture and Rural Affairs reports and recommends:

### Clearinghouse Rule 82-192

AN ORDER to create ch. Ag 56, relating to label requirements for food products made to resemble a dairy product.

No objection:

Ayes, 5 -- Senators Moen, Feingold, Offner, Opitz and Theno;

Noes, 0 -- None.

### Clearinghouse Rule 82-194

AN ORDER to renumber Ag 29.17; and to create Ag 29.17, relating to special restrictions on the use of pesticides containing aldicarb.

No objection:

Ayes, 5 -- Senators Moen, Feingold, Offner, Opitz and Theno;

Noes, 0 -- None.

RODNEY C. MOEN

Chair

The committee on Transportation reports and recommends:

### Clearinghouse Rule 82-151

AN ORDER to create Trans 200.07, relating to the design, size and installation requirements for signs designating parking spaces reserved for handicapped persons.

No action taken.

CARL OTTE

Chair

The committee on Judiciary and Consumer Affairs reports and recommends:

### Clearinghouse Rule 82-209

AN ORDER to repeal Ins 4.01 (2) (f), relating to interpretation and implementation of s. 632.05 (2), Stats.

No action taken.

LYNN S. ADELMAN  
Chair

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MESSAGE FROM THE ASSEMBLY

By Joanne M. Duren, chief clerk.

Mr. President:

I am directed to inform you that the assembly has passed and asks concurrence in:

**Assembly Bill 3**  
**Assembly Bill 4**  
**Assembly Bill 5**  
**Assembly Bill 7**  
**Assembly Bill 15**  
**Assembly Bill 17**

Concurred in:

**Senate Joint Resolution 12**  
**Senate Joint Resolution 14**  
**Senate Bill 66**

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MESSAGE FROM THE ASSEMBLY  
CONSIDERED

**Assembly Bill 3**

Relating to state aid to fairs.

By Joint Committee for Review of Administrative Rules.

Read first time and referred to committee on Urban Affairs and Government Operations.

**Assembly Bill 4**

Relating to issuance of chauffeur's licenses.

By Joint Committee for Review of Administrative Rules.

Read first time and referred to committee on Transportation.

**Assembly Bill 5**

Relating to prohibiting the department of industry, labor and human relations from fixing and collecting fees for inspecting amusement attractions.

By Joint Committee for Review of Administrative Rules.

Read first time and referred to committee on Labor, Business, Veterans Affairs and Tourism.

**Assembly Bill 7**

Relating to snowmobile travel adjacent to roadways.

By Representatives Potter, Vanderperren, Hasenohrl and Turba.

Read first time and referred to committee on Transportation.

**Assembly Bill 15**

Relating to disability and death benefits for protective occupation participants.

By Representatives Holschbach, Andrea, Looby and Kunicki, co-sponsored by Senators Otte and Van Sistine.

Read first time and referred to committee on Labor, Business, Veterans Affairs and Tourism.

**Assembly Bill 17**

Relating to the joint survey committee on retirement systems and the retirement research committee.

By Representatives Holschbach, Andrea and Looby, co-sponsored by Senator Otte, by request of Retirement Research Committee.

Read first time and referred to committee on Urban Affairs and Government Operations.

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CALENDAR OF FEBRUARY 17

**Senate Resolution 5**

Relating to requesting the attorney general to initiate or intervene in an action to oppose the sale of any portion of the Apostle Islands National Lakeshore or any exchange of land affecting the Apostle Islands National Lakeshore which would have a detrimental effect on the people of this state.

Read.

The question was: Shall **Senate Resolution 5** be adopted?

The ayes and noes were demanded and the vote was: ayes, 26; noes, 5; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Davis, Ellis, Engeleiter, Feingold, George, Hanaway, Harsdorf, Kleczka, Lee, Lorge, Lorman, McCallum, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Theno, Thompson and Van Sistine -- 26.

Noes -- Senators Chilsen, Johnston, Kreul, Lasee and Opitz -- 5.

Absent or not voting -- None.

So the resolution was adopted.

**Senate Joint Resolution 15**

Commending Tom King for his service to the Wisconsin state employees union and the state.

Read.

Adopted.

**Senate Bill 15**

Relating to issuance of chauffeur's licenses.

Read a second time.

The question was: Adoption of senate substitute amendment 1?

Adopted.

Ordered to a third reading.

By request of Senator Cullen, with unanimous consent, the bill was considered for final action at this time.

**Senate Bill 15**

Read a third time and passed.

**Senate Bill 16**

Relating to state aid to fairs.

Read a second time.

The question was: Adoption of senate substitute amendment 1?

By request of Senator Kleczka, with unanimous consent, **Senate Bill 16** was referred to joint committee on Finance.

**Senate Bill 17**

Relating to prohibiting the department of industry, labor and human relations from fixing and collecting fees for inspecting amusement attractions.

Read a second time.

The question was: Adoption of senate amendment 1?

By request of Senator Kleczka, with unanimous consent, **Senate Bill 17** was referred to joint committee on Finance.

**Assembly Joint Resolution 5**

Providing for an advisory referendum on the question of locating a nuclear waste site in Wisconsin.

Read.

Senator Chilsen moved that **Assembly Joint Resolution 5** be laid on the table.

The question was: Shall **Assembly Joint Resolution 5** be laid on the table?

The motion did not prevail.

The question was: Shall **Assembly Joint Resolution 5** be concurred in?

Concurred in.

**Assembly Bill 13**

Relating to eliminating the requirement that operators' licenses be centrally issued.

Read a second time.

Ordered to a third reading.

By request of Senator Cullen, with unanimous consent, the bill was considered for final action at this time.

**Assembly Bill 13**

Read a third time and concurred in.

**Assembly Bill 36**

Relating to payment of judgments against sheriffs and deputy sheriffs.

Read a second time.

Ordered to a third reading.

By request of Senator Cullen, with unanimous consent, the bill was considered for final action at this time.

**Assembly Bill 36**

Read a third time and concurred in.

**Assembly Bill 47**

Relating to making the birthdate of Martin Luther King, Jr. a legal holiday.

Read a second time.

Ordered to a third reading.

By request of Senator Cullen, with unanimous consent, the bill was considered for final action at this time.

**Assembly Bill 47**

Read a third time and concurred in.

**Assembly Bill 104**

Relating to state cash flow, authorization to incur financial obligations and issue operating notes, reallocation of state moneys, delayed state payments to local governments, state claim proration and payment schedules and making appropriations.

Read a second time.

Senate amendment 1 offered by Senators Engeleiter, Chilsen, Ellis, Hanaway, Theno, Davis, Johnston, Lasee, McCallum, Lorman, Harsdorf and Kreul.

Senate amendment 2 offered by Senators Engeleiter, Chilsen, Ellis, Hanaway, Theno, Davis, Johnston, Lasee, McCallum, Lorman, Kreul and Harsdorf.

Senate substitute amendment 1 offered by Senators Ellis, Kreul, Lorman, McCallum, Lasee, Johnston, Opitz, Engeleiter and Hanaway.

The question was: Adoption of senate substitute amendment 1?

By request of Senator Cullen, with unanimous consent, the senate recessed until 2:00 P.M.

11:54 A.M.

RECESS

2:00 P.M.

The senate reconvened.

QUORUM CALL

The president of the senate called attention to a possible lack of a quorum.

The roll was called and the following senators answered to their names:

Senators Bablitch, Chilsen, Cullen, Davis, Ellis, Engeleiter, Feingold, George, Hanaway, Harsdorf, Johnston, Kleczka, Kreul, Lasee, Lee, Lorge, Lorman, McCallum, Moen, Norquist, Offner, Opitz, Otte, Risser, Roshell, Strohl, Theno, Thompson and Van Sistine -- 29.

Absent -- Senators Adelman and Maurer -- 2.

Absent with leave -- None.

By request of Senator Harsdorf, with unanimous consent, senate amendments 1 and 2 were considered at this time.

The question was: Adoption of senate amendment 1?

Senator Kleczka moved rejection of senate amendment 1.

The question was: Rejection of senate amendment 1?

The ayes and noes were demanded and the vote was: ayes, 17; noes, 14; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Feingold, George, Kleczka, Lee, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 17.

Noes -- Senators Chilsen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Johnston, Kreul, Lasee, Lorge, Lorman, McCallum, Opitz and Theno -- 14.

Absent or not voting -- None.

So the motion prevailed.

The question was: Adoption of senate amendment 2?

Senator Kleczka moved rejection of senate amendment 2.

The question was: Rejection of senate amendment 2?

The ayes and noes were demanded and the vote was: ayes, 17; noes, 14; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Feingold, George, Kleczka, Lee, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 17.

Noes -- Senators Chilsen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Johnston, Kreul, Lasee, Lorge, Lorman, McCallum, Opitz and Theno -- 14.

Absent or not voting -- None.

So the motion prevailed.

Senate amendment 3 offered by Senators Lorge, Ellis, Kreul and Johnston.

The question was: Adoption of senate amendment 3?

Senator Offner moved rejection of senate amendment 3.

The question was: Rejection of senate amendment 3?

The ayes and noes were demanded and the vote was: ayes, 17; noes, 14; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Feingold, George, Kleczka, Lee, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 17.

Noes -- Senators Chilsen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Johnston, Kreul, Lasee, Lorge, Lorman, McCallum, Opitz and Theno -- 14.

Absent or not voting -- None.

So the motion prevailed.

Senate amendment 4 offered by Senators Harsdorf, Kreul, Lorman and Ellis.

The question was: Adoption of senate amendment 4?

Senator Kleczka moved rejection of senate amendment 4.

The question was: Rejection of senate amendment 4?

By request of Senator Harsdorf, with unanimous consent, senate amendment 4 was returned to the author.

Senate amendment 5 offered by Senators Harsdorf, Kreul, Lorman, Hanaway, Ellis and Engeleiter.

The question was: Adoption of senate amendment 5?

Senator Kleczka moved rejection of senate amendment 5.

The question was: Rejection of senate amendment 5?

The ayes and noes were demanded and the vote was: ayes, 19; noes, 12; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Feingold, George, Kleczka, Lee, Lorge, McCallum, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 19.

Noes -- Senators Chilsen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Johnston, Kreul, Lasee, Lorman, Opitz and Theno -- 12.

Absent or not voting -- None.

So the motion prevailed.

Senate amendment 1 to senate substitute amendment 1 offered by Senator Ellis.

The question was: Adoption of senate amendment 1 to senate substitute amendment 1?

Adopted.

The question was: Adoption of senate substitute amendment 1?

Senator Kleczka moved rejection of senate substitute amendment 1.

The question was: Rejection of senate substitute amendment 1?

By request of Senator Kleczka, with unanimous consent, he withdrew his motion for rejection of senate substitute amendment 1.

The question was: Adoption of senate substitute amendment 1?

The amendment was not adopted.

Senate amendment 6 offered by Senators Harsdorf, Hanaway, Ellis, Chilsen, Engeleiter, Kreul, Lorman and McCallum.

The question was: Adoption of senate amendment 6?

Senator Kleczka moved rejection of senate amendment 6.

The question was: Rejection of senate amendment 6?

The ayes and noes were demanded and the vote was: ayes, 17; noes, 14; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Feingold, George, Kleczka, Lee, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 17.

Noes -- Senators Chilsen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Johnston, Kreul, Lasee, Lorge, Lorman, McCallum, Opitz and Theno -- 14.

Absent or not voting -- None.

So the motion prevailed.

Senator Opitz raised the point of order that the referral of **Assembly Bill 104** to the Joint Survey Committee on Debt Management was required by Sec. 13.49.

The chair ruled the point of order not well taken.

Senator Opitz appealed the ruling of the chair.

The question was: Shall the decision of the chair stand as the judgment of the senate?

The ayes and noes were required and the vote was: ayes, 17; noes, 14; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Feingold, George, Kleczka, Lee, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 17.

Noes -- Senators Chilsen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Johnston, Kreul, Lasee, Lorge, Lorman, McCallum, Opitz and Theno -- 14.

Absent or not voting -- None.

So the decision of the chair shall stand as the judgment of the senate.

The question was: Shall **Assembly Bill 104** be ordered to a third reading?

The motion prevailed.

Ordered to a third reading.

By request of Senator Cullen, with unanimous consent, the bill was considered for final action at this time.

#### **Assembly Bill 104**

Read a third time.

The ayes and noes were required and the vote was: ayes, 17; noes, 14; absent or not voting, 0; as follows:

Ayes -- Senators Adelman, Bablitch, Cullen, Feingold, George, Kleczka, Lee, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 17.

Noes -- Senators Chilsen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Johnston, Kreul, Lasee, Lorge, Lorman, McCallum, Opitz and Theno -- 14.

Absent or not voting -- None.

So the bill was concurred in.

By request of Senator Chilsen, with unanimous consent, the letter from the Secretary of the Department of Administration to the Attorney General was spread upon the journal.

State of Wisconsin  
Department of Justice

February 2, 1983

Secretary Doris J. Hanson  
Department of Administration  
Dear Ms. Hanson:

You have asked whether it is constitutionally and statutorily permissible for the state to engage in short-term (eighteen months or less) borrowing from private financial institutions or other private sources for the purpose of meeting current cash flow shortages beginning in March of this year which will result in a budget deficit in excess of \$250,000,000 for the biennium ending June 30, 1983.

Subject to the qualifications discussed below, I conclude that it is constitutionally permissible for the state to borrow from private sources to meet the anticipated deficit. But I find no provision in the statutes which would presently permit the state to engage in such borrowing. I therefore conclude that the Legislature must provide statutory authorization before borrowing may be undertaken.

To be constitutionally permissible, the proposed borrowing must not be general obligation borrowing, i.e., it must not create public debt. The contracting of public debt is regulated by article VIII, section 4, of the Wisconsin Constitution, which provides that "(t)he state shall never contract any public debt except in the cases and manner herein provided." In *State ex rel. Thomson v. Giessel*, 267 Wis. 331, 346, 65 N.W.2d 529 (1954), the supreme court noted "(t)he exceptions referred to are to be found in secs. 5, 6 and 7, art. VIII of the (Wisconsin) constitution...."

Section 5 reads:

The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the state for each year; and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses of such ensuing year.

Section 5 imposes an affirmation obligation on the Legislature to cure a deficit within the year following its occurrence, but section 5 does not allow the creation of public debt for this purpose.

Our supreme court in *State ex rel. Owen v. Donald*, 160 Wis. 21, 59, 151 N.W. 331 (1915), defined public debt in the following manner:

There is nothing particularly technical about the meaning of the word "debt" as used in the pay money, or its equivalent, from funds to be provided, as distinguished from money presently available or in process of collection and so treatable as in hand. *Earles v. Wells*, 94 Wis. 285, 68 N.W. 964; *Doon Tp. v. Cummins* 142 U.S. 366, 376, 12 Sup. Ct. 320.

In *Earles v. Wells and others*, 94 Wis. 285, 298, 68 N.W. 964 (1896), the supreme court stated:

So long as the current expenses of the municipality are kept within the limits of the moneys and assets actually in the treasury, and the current revenues collected or in process of immediate collection, the municipality may be fairly regarded as doing business on a cash basis, and not on credit,--even though there may be for a short time some unpaid liabilities.

To meet its constitutional responsibility under article VIII, section 5, the Legislature must levy "a tax for the ensuing year, sufficient...to pay the deficiency." The Legislature must therefore enact, collect and appropriate a tax sufficient to cure the deficit by June 30, 1984. Since the tax receipts must be collected within a year so as to meet the constitutional requirement that the deficit be cured, those tax receipts may properly be characterized as "funds in the process of collection" and there will be no public debt.

There likely are additional ways to condition the liability. For example, if repayment of the loan is subject to a subsequent appropriation of funds by the Legislature, or if repayment of the loan is restricted to a particular source of funds, the loan would be conditional rather than absolute, and so would not constitute public debt within the meaning of the constitution.

Subject to the requirements discussed above, I therefore conclude that the Legislature may enact legislation which would enable the state to borrow funds from private sources to meet its obligation to balance the budget under article VIII, section 5. This opinion is intended only for early general guidance. Any proposed legislation must be drafted with due respect for the constitutional concerns discussed above. Our office will of course stand ready to assist you in developing the necessary legislation.

Sincerely yours,  
BRONSON C. La FOLLETTE  
Attorney General

#### MOTIONS

Senator Harsdorf moved that the verbal opinion of the chair on the point of order raised on **Assembly Bill 104** be spread upon the journal.

The question was: Shall the verbal opinion of the chair be spread upon the journal?

The ayes and noes were demanded and the vote was: ayes, 14; noes, 17; absent or not voting, 0; as follows:

Ayes -- Senators Chilsen, Davis, Ellis, Engeleiter, Hanaway, Harsdorf, Johnston, Kreul, Lasee, Lorge, Lorman, McCallum, Opitz and Theno -- 14.

Noes -- Senators Adelman, Bablitch, Cullen, Feingold, George, Kleczka, Maurer, Moen, Norquist, Offner, Otte, Risser, Roshell, Strohl, Thompson and Van Sistine -- 17.

Absent or not voting -- None.

So the motion did not prevail.

By request of Senator Chilsen, with unanimous consent, the Senate returned to the second order of business.

#### INTRODUCTION OF RESOLUTIONS

##### **Senate Joint Resolution 17**

Providing for an advisory referendum on the question of the method of conducting the presidential preference primary.

By Senators Chilsen, Engeleiter, Harsdorf, Kreul, Lorman, McCallum, Lasee, Johnston, Davis and Ellis.

Read and referred to committee on Urban Affairs and Government Operations.

By request of Senator Cullen, with unanimous consent, all action was ordered immediately messaged.

#### AMENDMENTS OFFERED

Senate substitute amendment 1 to **Senate Bill 6** by Senator Kleczka.

Upon motion of Senator Cullen the senate adjourned pursuant to **Senate Joint Resolution 2**.

3:35 P.M.

#### CHIEF CLERK'S CORRECTION

Suggested by Legislative Reference Bureau

##### **Assembly Bill 104**

1. Page 9, line 8: after "incurred" insert "and".

##### **Assembly Bill 104**, senate substitute amendment 1

1. Page 7, line 10: after "incurred" insert "and".